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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/754,155	01/09/2004	John W. McMullen	CUSTB 63550	7513
24201	7590	03/16/2006	EXAMINER	
FULWIDER PATTON 6060 CENTER DRIVE 10TH FLOOR LOS ANGELES, CA 90045			SHAH, AMEE A	
			ART UNIT	PAPER NUMBER
			3625	

DATE MAILED: 03/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/754,155	MCMULLEN ET AL.	
	Examiner	Art Unit	
	Amee A. Shah	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>4/13/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-46 are pending in this action.

Drawings

The drawings are objected to because Figures 3-15 contain improper shading that will not aid in the understanding and will not reproduce properly. *See* 37 CFR 1.84. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Examiner Note

Examiner cites particular pages, columns, paragraphs and/or line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that, in preparing responses, the applicant fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Claim Rejections - 35 U.S.C. § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-6, 16, 27, 29, 31, 32, 36 and 38 are rejected under 35 U.S.C. §102(e) as being anticipated by Deal, US Pat. App. Pub. No. 2005/0044011 A1 (hereinafter referred to as "Deal").

Referring to claim 1. Deal discloses a system for selling products in a home improvement or commercial construction store, comprising:

- an interactive display for disseminating information in response to requests by a user, the information including information regarding phases of a project and information regarding the seller's products adapted for use in performing phases of the project (page 2, ¶0020); and

- a visual display of the seller's products adapted for use in performing phases of the project, the products grouped on a plurality of shelves of the store according to the corresponding phase of the project for which the seller's products are adapted and having indicia for identifying the seller's products with the corresponding phase of the project (pages 2-3, ¶¶0023-0024 and 0034 – note the shelves and indicia are the graphical representation of store displays and products);
- wherein the information disseminated by the interactive display is coordinated with the grouping of the seller's products on the shelves of the store and the indicia to facilitate selection and use of the seller's products for performing the corresponding phases of the project (page 2, ¶0025 – note the coordination is the aiding in location).

Referring to claim 2. Deal further discloses the system of claim 1 wherein the information disseminated directs the user to the location of the seller's products on the shelves of the store (page 2, ¶0025).

Referring to claim 3. Deal further discloses the system of claim 1 wherein the interactive display comprises a keyboard or keypad (page 3, ¶0041)

Referring to claim 4. Deal further discloses the system of claim 1 wherein the interactive display comprises a touch sensitive screen (page 3, ¶0040).

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Referring to claim 5. Deal further discloses the system of claim 1 wherein the interactive display is in a kiosk (pages 2-3, ¶0031).

Referring to claim 6. Deal also discloses the system of claim 1 further comprising a printer (page 3, ¶0042).

Referring to claim 16. Deal also discloses the system of claim 1 further comprising a remote server that provides access to the interactive display from a home computer accessed via the Internet (pages 2-3, ¶¶0027, 0028 and 0032).

Referring to claims 27, 29, 31, 32, 36 and 28. The limitations of claims 27, 29, 31, 32, 36 and 38 are closely parallel to the limitations of claims 1, 5, 6 and 16, analyzed above, and are rejected on the same bases.

Claim Rejections - 35 U.S.C. § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7, 8, 15 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deal in view of Gupta et al., US Pat. No. 6,820,062 B1 (hereinafter referred to as "Gupta et al.").

Referring to claims 7 and 8. Deal discloses the system of claim 1, as discussed above, but does not disclose wherein the interactive display provides a selection of a language in which information is disseminated, nor wherein the information disseminated includes both video and textual information. Gupta et al., in the same field of endeavor of e-shopping, discloses a system and method for graphically locating merchandise comprising in part an interactive display that provides a selection of language in which to disseminate the information and that disseminates both video and textual information (col. 5, lines 23-25, col. 7, lines 44-51, and col. 8, lines 12-14).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to have modified the system of Deal include the teachings of Gupta et al. to allow for the interactive display to provide a selection of languages in which to disseminate information and to disseminate both video and textual information. Doing so would allow for a better informed shopper, for example one for whom English is not the first language or one who understands better with visual graphics rather than text, thereby increasing the likelihood that he/she will make a purchase, as suggested by Gupta et al. (col. 1, lines 66-67 and col. 8, lines 12-14).

Referring to claim 15. Deal discloses the system of claim 1, as discussed above, but does not disclose wherein the interactive display provides a means for tracking usage of the interactive display. Gupta et al., in the same field of endeavor of e-shopping, discloses a system and method

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for graphically locating merchandise comprising in part an interactive display that provides a means for tracking usage of the interactive display (col. 8, lines 52-65).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to have modified the system of Deal include the teachings of Gupta et al. to allow for the interactive display to provide a means for tracking usage of the interactive display. Doing so would allow for a seller to better understand shoppers' preferences and habits, allowing them to make improvement to their stores and increase profit, as suggested by Gupta et al. (col. 8, line 66 through col. 9, line 6).

Referring to claim 37. The limitations of claim 37 are closely parallel to the limitations of claim 15, analyzed above, and are rejected on the same bases.

Claims 9-11 and 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deal in view of Heisler et al., US Pat. App. Pub. No. 2001/0044749 A1 (hereinafter referred to as "Heisler et al.").

Referring to claims 9 and 11. Deal discloses the system of claim 1, as discussed above, but does not disclose wherein the information disseminated includes description of tools and products provided by the seller and adapted for performing specific phases of the project and instructional presentations regarding how to perform a specific phase of the project. Heisler et al., in the same field of endeavor of e-shopping, discloses a method and system for the complete design and identification of materials and tools for home improvement projects, including disseminating descriptions of tools and products available from the seller for use in specific

phases of the project and instructional presentations regarding how to perform a specific phase of the project (page 2, ¶0021).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to have modified the system of Deal include the teachings of Heisler et al. to allow for the dissemination of a description of tools and products provided by the seller and adapted for performing specific phases of the project and instructional presentations regarding how to perform a specific phase of the project. Doing so would allow businesses to better market certain goods and would provide the customer knowledge to allow for the customer to perform the project more quickly and successfully.

Referring to claim 10. Deal discloses the system of claim 1, as discussed above, but does not disclose wherein the interactive display provides a means for estimating quantities of particular ones of the seller's products that are needed for performing a specific phase of the project based upon information provided by the user. Heisler et al., in the same field of endeavor of e-shopping, discloses a method and system for the complete design and identification of materials and tools for home improvement projects including means for estimating quantities of a particular product of seller's that is needed for performing a specific phase of the project, based upon information provided by the user (pages 3-4, ¶0032).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to have modified the system of Deal include the teachings of Heisler et al. to allow for means for estimating quantities of particular ones of the seller's products that are needed for performing a specific phase of the project based upon information provided by the user. Doing

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so would increase the efficiency of a customer's project by reducing the number of trips made to a store because of guesses about quantities, as explicitly suggested by Heisler et al. (page 1, ¶0006).

Referring to claims 33-35. The limitations of claims 33-35 are closely parallel to the limitations of claims 9-11, analyzed above, and are rejected on the same bases.

Claims 12-14, 30 and 39-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deal.

Referring to claims 12, 13 and 14. Deal discloses the system of claim 1, as discussed above, but does not expressly show wherein the indicia comprises either color coding the seller's products, number coding the seller's products, or visual representations such as shapes or designs.

As analyzed above, Deals shows having indicia for identifying the seller's products with the corresponding phase of the project, but does not disclose the indicia specifically being color coding, number coding or shapes or designs. However, these differences are only found in the nonfunctional descriptive material and do not alter the visual display functionality (i.e. the descriptive material does not alter the structure of a display). Thus, the descriptive material will not distinguish the claimed inventions from the prior art in terms of patentability. *See In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowrey*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to mark the products with indicia that can be color coding the seller's products, number coding the seller's products, or visual representations such as shapes or designs, because such indicia does not alter the display and also because the subjective interpretation of the information does not patentably distinguish the claimed invention.

Referring to claim 30. Deal discloses the method of claim 29, as discussed above, whereby the interactive display is located in a kiosk, but does not explicitly disclose further comprising providing some of the seller's products in the kiosk. However, this difference is only found in the nonfunctional descriptive material and does not alter the step of providing some of seller's products, whether located adjacent to or within the kiosk. Thus, the descriptive material will not distinguish the claimed inventions from the prior art in terms of patentability. *See In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowrey*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time to provide some of the seller's products in the kiosk for added convenience to the customer, more aggressive marketing, and also because the subjective interpretation of the information does not patentably distinguish the claimed invention.

Referring to claims 39-41. The limitations of claims 39-41 are closely parallel to the limitations of claims 12-14, analyzed above, and are rejected on the same bases.

Claims 17-21, 28, 42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deal in view of www.lowes.com, archived at web.archive.org and dated Nov. 25, 2002 (hereinafter referred to as “lowes.com”).

Referring to claim 17. Deal discloses the system of claim 1, as discussed above, but does not specifically disclose wherein the project is installing tile or stone and the phases of the project include preparing the area, setting the tile or stone, grouting the tile or stone and maintaining the installed tile or stone. Lowes.com, in the same field of endeavor of e-shopping, discloses a system for buying home improvement tools and services online, including providing instructions on performing home improvement projects including installing tile or stone with the phases involved (see pages 4-16).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to have modified the system of Deal include the teachings of lowes.com to allow for the project to be installing tile or stone with the phases of the project in order for customers to locate materials and tools necessary for installing tile or stone, as suggested by lowes.com.

Referring to claims 18. Deal in view of lowes.com discloses the system of claim 17, as discusses above, wherein the information disseminated includes information regarding the types of tile and stone available and the products and tools required for performing the phases of the project for the different types of tile and stone (lowes.com, pages 4-16) so that customers are better able to locate the products and tools necessary for the project.

Referring to claim 19. Deal in view of lowes.com discloses the system of claim 17, as discussed above, wherein the information disseminated includes descriptions of tools and products provided by the seller and adapted for performing specific phases of the project for a specific type of tile or stone in a specific environment (lowes.com, pages 4-16) so that customers are better able to locate the products and tools necessary for the project.

Referring to claims 20 and 21. Deal in view of lowes.com discloses the system of claim 19, as discussed above, but does not specifically disclose wherein the environment is indoors or outdoors. However, this difference is only found in the nonfunctional descriptive material and do not alter the functionality of the interactive display that disseminates information (i.e. the descriptive material does not alter the structure of the display). Thus, the descriptive material will not distinguish the claimed inventions from the prior art in terms of patentability. *See In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowrey*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to allow for the information on the project to encompass any environment, because such information does not alter the display and also because the subjective interpretation of the information does not patentably distinguish the claimed invention.

Referring to claim 28. Deal discloses the method of claim 27, as discussed above, but does not disclose further comprising providing the seller's products adapted to perform all phases of the home improvement or commercial construction project from inception to completion.

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Lowes.com, in the same field of endeavor of e-shopping, discloses a system for buying home improvement tools and services online, including providing the seller's products adapted to perform all phases of the home improvement or commercial construction project from inception to completion (pages 1-5).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to have modified the system of Deal include the teachings of lowes.com to allow for the providing the seller's products adapted to perform all phases of the home improvement or commercial construction project from inception to completion in order for customers to more easily locate materials and tools necessary for installing tile or stone, increasing the possibility of purchases made from the seller.

Referring to claims 42 and 43. The limitations of claims 42 and 43 are closely parallel to the limitations of claims 17 and 18, analyzed above, and are rejected on the same bases.

Claims 22, 24-26, 44 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deal in view of Gupta et al. and further in view of lowes.com.

Referring to claims 22, 24-26, 44 and 45. The limitations of claims 22-26 are closely parallel to the limitations of claims 1, 5-8, 10 and 17-19, analyzed above, and are rejected on the same bases.

Claims 23 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deal in view of Gupta et al. and further in view of lowes.com and further in view of Heisler et al.

Referring to claims 23 and 46. The limitations of claim 23 and 46 are closely parallel to the limitations of 10 and 17, analyzed above, and are rejected on the same bases.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

(1) Lieu et al., U.S. Pat. App. Pub. No. 2002/0010637 A1, discloses techniques for purchasing items related to one or more projects, including providing information relating to performing a project and tools necessary for the project, and allowing the purchase of materials (*see, e.g.*, pages 2-13).

(2) Griffin, U.S. Pat. App. Pub. No. 2004/0073492 A1, discloses a system and techniques for “Do-It-Yourself” customers to successfully construct a substantial structure (*see, e.g.*, pages 2-4).

(3) Perkowski, U.S. Pat. App. Pub. No. 2005/0251456 A1, discloses system for supporting products, providing information kiosks in interactive displays, and delivering advertising information from manufacturers and vendors (*see, e.g.*, pages 15-28).

(4) Author unknown, “Home Depot Launches ‘Customer-Driven’ Internet Strategy With New Web Site,” Canada NewsWire, Ottawa, Jun. 30, 1999, pg. 1, discloses the homedepot.com

website that provides information on performing a project including materials and tools needed to complete it, and allows purchasing of those materials and tools online.

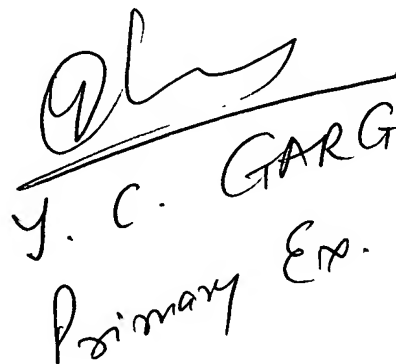
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ameer A. Shah whose telephone number is 571-272-8116. The examiner can normally be reached on Mon.-Fri. 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rob Pond can be reached on 571-272-6760. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AAS

March 14, 2006


Y. C. GARG
Primary Exp.